

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAIME BRAVO, JOSE ESTRADA, ADAM
ORTIZ, EZEKIAL DIAZ, ELEE SILVA,
ARLEN CRESPIN, VERONICA HERNANDEZ,
MARTHA MUÑOZ, SERGIO ROBLEDO,
REBECCA TELLES, RON HERNANDEZ,
JEREMY ROBLEDO and EMA MURILLO,
on behalf of themselves and a class of all
similarly situated individual,

Plaintiffs,

v.

No. CIV 08-10 MV/KBM

BOARD OF COUNTY COMMISSIONERS FOR
THE COUNTY OF DOÑA ANA, THE DOÑA ANA
COUNTY DETENTION CENTER, CHRISTOPHER
BARELA in his individual and official capacities,
THE CITY OF LAS CRUCES, KEN MIYAGISHIMA
in his official capacity, TERRENCE MOORE in his
official capacity, THE LAS CRUCES POLICE
DEPARTMENT, HARRY ROMERO in his official
capacity, TODD GARRISON in hi official capacity,
THE DOÑA ANA COUNTY SHERIFF'S OFFICE,
and JOHN and JANE DOES 1-10,

Defendants,

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Ken Miyagishima's Motion to Dismiss No. I: Dismissal of Claims Based on the United States Constitution, the Americans with Disabilities Act, the Rehabilitation Act, and Request for Injunctive Relief (Doc. No. 12, filed March 7, 2008), on Ken Miyagishima's Motion to Dismiss No. II: Dismissal of Claims Based on the New Mexico Tort Constitution and New Mexico Tort Claims Act (Doc. No. 14, filed March 7, 2008), and on the LCPD Defendants' Motion to Dismiss Class Action Claims (Doc. No. 28, filed April 28, 2008).

Plaintiffs filed their Second Amended Complaint (Doc. No. 36) on June 16, 2008. Because the three pending motions cited above were filed before Plaintiffs filed their Second Amended Complaint, the Court will deny them as moot. *See Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) (A “pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified.”). Defendants may file motions to dismiss the claims in Plaintiffs’ Second Amended Complaint.

IT IS SO ORDERED.

Dated this 28th day of January, 2009.



MARTHA VAZQUEZ
CHIEF UNITED STATES DISTRICT JUDGE

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